
R. LEIGH MCPHAIL
V
CHILDNET, INC.

DEPOSITION OF SILVIA SMITH-TORRES

March 13, 2013

CONDENSED TRANSCRIPT AND CONCORDANCE

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<p>1 APPEARANCES:</p> <p>2</p> <p>3 WILLIAM R. AMLONG, ESQUIRE</p> <p>4 AMLONG & AMLONG, P.A.</p> <p>5 500 NORTHEAST FOURTH STREET</p> <p>6 FORT LAUDERDALE, FLORIDA 33301</p> <p>7 ON BEHALF OF THE PLAINTIFF.</p> <p>8</p> <p>9 THOMAS H. LOFFREDO, ESQUIRE</p> <p>10 GRAY ROBINSON</p> <p>11 401 EAST LAS OLAS BOULEVARD</p> <p>12 LAS OLAS CITY CENTRE - 401</p> <p>13 FORT LAUDERDALE, FLORIDA 33301</p> <p>14 ON BEHALF OF THE DEFENDANT.</p> <p>15</p> <p>16 ALSO PRESENT:</p> <p>17</p> <p>18 CHRIS SUTTER, IN-HOUSE COUNSEL CHILDNET</p> <p>19</p> <p>20</p> <p>21</p> <p>22</p> <p>23</p> <p>24</p> <p>25</p>	<p>2</p> <p>4</p> <p>1 EXHIBITS</p> <p>2</p> <p>3 DESCRIPTION PAGE</p> <p>4 Plaintiff's Exhibit 1 26</p> <p>5 Plaintiff's Exhibit 2 34</p> <p>6 Plaintiff's Exhibit 3 49</p> <p>7 Plaintiff's Exhibit 4 50</p> <p>8 Plaintiff's Exhibit 5 52</p> <p>9 Plaintiff's Exhibits 6, 7, 8, 9 and 10 53</p> <p>10</p> <p>11</p> <p>12</p> <p>13</p> <p>14</p> <p>15</p> <p>16</p> <p>17</p> <p>18</p> <p>19</p> <p>20</p> <p>21</p> <p>22</p> <p>23</p> <p>24</p> <p>25</p>
<p>3</p> <p>1 INDEX</p> <p>2</p> <p>3 EXAMINATIONS PAGE</p> <p>4 SYLVIA SMITH-TORRES</p> <p>5 DIRECT EXAMINATION 5</p> <p>6</p> <p>7</p> <p>8</p> <p>9</p> <p>10</p> <p>11</p> <p>12</p> <p>13</p> <p>14</p> <p>15</p> <p>16</p> <p>17</p> <p>18</p> <p>19</p> <p>20</p> <p>21</p> <p>22</p> <p>23</p> <p>24</p> <p>25</p>	<p>5</p> <p>1 THEREUPON:</p> <p>2 THE COURT REPORTER: Raise your right</p> <p>3 hand, please.</p> <p>4 Do you swear the testimony you're about</p> <p>5 to give is the truth, the whole truth, and</p> <p>6 nothing but the truth, so help you God?</p> <p>7 THE WITNESS: I do.</p> <p>8 THEREUPON:</p> <p>9 SYLVIA SMITH-TORRES,</p> <p>10 was called as a witness by the Plaintiff and, after having</p> <p>11 been first duly sworn, was examined and testified as</p> <p>12 follows:</p> <p>13 DIRECT EXAMINATION</p> <p>14 BY MR. AMLONG:</p> <p>15 Q. Please give us your full name, tell us where you</p> <p>16 live and what you do for a living.</p> <p>17 A. Sylvia Smith-Torres, 16009 Northwest 82nd Place,</p> <p>18 Miami Lakes, Florida 33016.</p> <p>19 MR. LOFFREDO: He asked what you do for</p> <p>20 a living.</p> <p>21 THE WITNESS: I'm sorry. I didn't hear</p> <p>22 the question.</p> <p>23 I'm the executive director for Broward</p> <p>24 at ChildNet.</p> <p>25 ///</p>

<p>6</p> <p>1 BY MR. AMLONG:</p> <p>2 Q. How long have you been executive director?</p> <p>3 A. Since October 1st of last year.</p> <p>4 Q. Tell me what the organizational structure now is</p> <p>5 of ChildNet.</p> <p>6 A. We have an executive director -- we have a CEO,</p> <p>7 who is a Emilio Benitez. We have a COO, who is Dipak</p> <p>8 Parekh. And he's also our CFO. Then we have an executive</p> <p>9 director in Broward and an executive director in Palm</p> <p>10 Beach.</p> <p>11 How far down do you want me to --</p> <p>12 Q. You know --</p> <p>13 A. Then we have five assistant vice presidents.</p> <p>14 Q. Okay.</p> <p>15 A. That are over both Palm Beach and Broward County.</p> <p>16 Q. So an executive director is higher than the</p> <p>17 assistant vice president?</p> <p>18 A. Yes.</p> <p>19 And then under the assistant vice presidents,</p> <p>20 there's directors.</p> <p>21 Q. And before you were executive director, what were</p> <p>22 you?</p> <p>23 A. I was vice president of client services.</p> <p>24 Q. Are there any more vice presidents?</p> <p>25 A. No.</p>	<p>8</p> <p>1 Then from 1980 -- I worked for a short time with</p> <p>2 my parents' company, but I don't remember the dates.</p> <p>3 Maybe it was a couple of years, two, three years. Silmar</p> <p>4 Electronics.</p> <p>5 Then I went to work for Peter Seafoods. I don't</p> <p>6 remember the dates, but I worked with Peter Seafoods.</p> <p>7 Then they had another company, another seafood company</p> <p>8 that I worked with.</p> <p>9 Then the accountants -- Peter Seafood's</p> <p>10 accountants recruited me. So I was a staff accountant. I</p> <p>11 worked on the books. I had several clients of my own</p> <p>12 for -- it was Shulitz and Rosenbloom.</p> <p>13 Q. Okay. For how long?</p> <p>14 A. One or two -- you know, I don't recall. One or</p> <p>15 two years.</p> <p>16 Q. Okay.</p> <p>17 A. Then I was employed -- I believe I was recruited</p> <p>18 from Shulitz and Rosenbloom to go work -- it was called</p> <p>19 Flora Foods in Pompano -- as a controller.</p> <p>20 Q. Okay.</p> <p>21 A. Then, you know what, I don't recall. Then in</p> <p>22 19 -- I'm sorry. Then I started the Carianne Center. I</p> <p>23 was a founder and the executive director. It was a</p> <p>24 substance and abuse program from women and children.</p> <p>25 Q. Okay. Spell Carianne.</p>
<p>7</p> <p>1 You know what? I'm sorry. There is one now.</p> <p>2 Vice president of network development.</p> <p>3 Q. Who's that?</p> <p>4 A. Neiko Shea.</p> <p>5 Q. Take me through your educational and professional</p> <p>6 background, please.</p> <p>7 A. Education, I have a high school degree. I don't</p> <p>8 have a college degree. I worked for -- well, University</p> <p>9 of Miami Child Protection Team as a program administrator</p> <p>10 from 1994 to 2000 -- dates -- then I worked for ChildNet</p> <p>11 from 2002, December 2002, to the present.</p> <p>12 Q. And you graduated from high school where?</p> <p>13 A. Our Lady of Lords Academy.</p> <p>14 Q. When?</p> <p>15 A. 1970.</p> <p>16 (Discussion off the record.)</p> <p>17 BY MR. AMLONG:</p> <p>18 Q. So your date of birth is?</p> <p>19 A. 9/28/52.</p> <p>20 Q. And what did you do between 1970 and 1994?</p> <p>21 A. I worked for -- I wish I had my resumé here. I</p> <p>22 worked for Bill Eisnor Real Estate for about ten years,</p> <p>23 from 1970 to 1980, started as a clerical position. I</p> <p>24 became the office manager for both branches. I became a</p> <p>25 broker. Then I did all the accounting for them.</p>	<p>9</p> <p>1 A. C-A-R-I-A-N-N-E.</p> <p>2 I stayed home for a while for a couple of years,</p> <p>3 then I founded the Carianne Center. In 1988 or '89, I</p> <p>4 started work on it. Well, '88, my daughter Carianne, who</p> <p>5 was my adopted daughter, who was substance exposed at</p> <p>6 birth, so I named the center after her. I worked in</p> <p>7 getting that center together till -- up until about 1992.</p> <p>8 Then I had some medical issues and I didn't go back to</p> <p>9 work until 1994.</p> <p>10 Then from --</p> <p>11 Q. 1994 through 2000, you were at the University of</p> <p>12 Miami Child --</p> <p>13 A. Child Protection Team. I was a program</p> <p>14 administrator.</p> <p>15 Q. What was the -- why did the University of Miami</p> <p>16 have a child protection team?</p> <p>17 A. They subcontracted with the Department of Health</p> <p>18 to provide the services.</p> <p>19 Q. So this is pre-DCF?</p> <p>20 A. No -- there was an investiture. They changed</p> <p>21 from HRS to DCF while I was there.</p> <p>22 Q. But the University of Miami was subcontracting</p> <p>23 from first HRS, then DCF?</p> <p>24 A. Yes -- no. When they split, it was DJJ, DOH and</p> <p>25 HRS was under one umbrella, then they all three split.</p>

<p style="text-align: right;">10</p> <p>1 And the Child Protection Team went under the Department of 2 Health. And we did have contracts with -- I was able to 3 get a contract with DCF in addition to our contract with 4 the Department of Health. 5 Q. This is for Dade County? 6 A. Yes. 7 Q. From 2000 to 2002, you were out of work? 8 A. 2000 to 2002 we moved to California for a while 9 for about two years. My husband had been doing -- he's in 10 the seafood business, and he had been doing a lot of 11 business in Mexico. We had four adopted children who were 12 starting to get themselves in a lot of trouble. So we 13 thought maybe our move to California would help them. 14 Q. Where in California? 15 A. San Diego. 16 And then I helped my husband with his business. 17 Q. Why did you return to Florida? 18 A. Well, I was homesick. Came seven times in two 19 years, because I had left my other -- my biological 20 children had stayed in Florida, and I was very homesick, 21 and my mother was here. And after 9/11, it was like, what 22 the heck are we doing out here, and the kids were getting 23 into even more trouble. 24 Q. It's so near Tijuana. 25 A. Believe it or not, that's the issue down there is</p>	<p style="text-align: right;">12</p> <p>1 identify placement for the children. 2 We have -- there, we have -- part of intake and 3 placement is also our court liaison. The next morning, 4 she goes and attends the hearing. And she's been 5 gathering information from the night before for the 6 morning when they staff the cases with the investigator 7 prior to going to shelter hearings. 8 There's a lot of things that are happening very 9 quickly once a child is initially removed. We're looking 10 for relatives, nonrelatives, trying to place children with 11 family rather than -- the least restrictive placement. 12 Q. Tell me what a shelter hearing is. 13 A. A shelter hearing is when a judge hears testimony 14 as to why the -- as to the reasons why it's not safe to 15 keep the kids at home to see if there's probable cause. 16 Shelters have to be heard within 24 hours of removal, so 17 we have shelters Saturdays and Sundays. 18 Q. What is case management? 19 A. Case management entails -- once the children -- 20 there's different aspects of case management. We have 21 voluntary protective supervision, which these are 22 voluntary services. 23 We have in-home services with the judicial 24 oversight that we refer to as PADs, petitions for 25 adjudication.</p>
<p style="text-align: right;">11</p> <p>1 the crystal meth. 2 Q. Take me through your career with ChildNet, 3 please. 4 A. Okay. I started December of 2002 as the director 5 of intake and placement until August of 2005. Then I was 6 promoted to assistant vice president of support services. 7 Then I want to say around -- I don't recall exactly, but 8 it -- March, April, May of 2006, I was promoted to vice 9 president of client services until September 30th of last 10 year. 11 Q. Tell me what your job is as vice president of 12 client services. 13 A. It entails from intake and placement, case 14 management, permanency and support services. 15 How detailed do you want me to be? 16 Q. Well, at least tell me what intake and placement 17 is. 18 A. When children are initially removed from their 19 parents, they're brought to our intake and placement 20 facility called Safe Place. That's where the children are 21 processed, the intake paperwork is done. We tried to at 22 the time to ameliorate, talk to them, try to stabilize 23 them. We have mental health experts on-site to evaluate 24 them. We do a screening to see if they need to be taken 25 to the hospital, while our intake and placement specialist</p>	<p style="text-align: right;">13</p> <p>1 And then we have the -- the kids are initially 2 removed from their parents, and we have what we call our 3 reunification units. Our in-home units work with the 4 parents in putting services in the home to ensure the 5 safety and well-being of the children and try to stabilize 6 the home without creating a removal episode. And for the 7 children who have been removed, the case managers work 8 with the parents providing them tasks. 9 There's a lot -- there's assessments that are 10 done to determine what tasks the parents need to do to 11 complete and/or to get the children placed back in their 12 home. 13 Q. And the first thing you mentioned before the 14 adjudication was what? 15 A. Those are in-home cases. 16 Q. Oh. 17 A. But there are two types of in-home cases; there's 18 voluntary, and there is with judicial oversight. And we 19 also have a family preservation unit now, which works 20 together with the Broward Sheriff's Office, and we monitor 21 the cases that are in prevention and diversion that don't 22 go into case management. The cases that go into case 23 management are higher risk cases. 24 Q. And permanency is what? 25 A. Permanency entails adoption, our adoption unit.</p>

<p>14</p> <p>1 Our TPR unit, which is termination of parental rights 2 unit, independent living, children with extraordinary 3 needs, and our missing persons unit, and our aftercare. 4 Q. Okay. 5 We have an adoption, terminating parental rights. 6 What else? 7 A. Independent living. 8 Q. What's that mean? 9 A. These are -- and it's really our children with a 10 goal of APPLA, another planned permanent living 11 arrangement. I know the acronym. These are -- it's -- to 12 me, it's an oxymoron. It's a goal you don't want to 13 achieve because it's usually children that unfortunately 14 have lingered in the system. The parents are not working 15 on their case plan tasks, and that's the goal that the 16 Court has given them because they're -- some of them may 17 have had the goal of adoption, but the goal has been 18 changed to APPLA, and it looks like these children may or 19 may not age out of foster care. 20 Q. Okay. 21 And the next one is? 22 A. Then we have a missing persons unit who actively 23 looks for our children who are on runaway. 24 Then we have a CEN unit, which is children with 25 extraordinary needs. These are children who have DJJ</p>	<p>16</p> <p>1 A. And that's another unit under support services. 2 Q. And what's the transportation unit do? 3 A. We transport our children to and from medical 4 appointments, visits, court, school. 5 Q. Does ChildNet have a residential facility? 6 A. No. 7 Q. So from where do you transfer the kids to courts 8 visits? 9 A. We contract. We contract. We have providers 10 that provide the foster home maintenance, residential 11 group care, and shelters. We contract that out. 12 Q. You contract out what now? 13 A. For shelter, shelter residential group care. And 14 foster homes, foster home maintenance. We have providers 15 that provide that service. And they're charged for 16 recruitment and retention of our foster parents. 17 Q. Who does the residential group care? 18 A. We have different providers. We have Henderson. 19 Q. Henderson Mental Health? 20 A. Henderson Mental Health. We have ACTS. 21 Q. What is that? 22 A. That's the acronym, ACTS. Agency -- you got me 23 there. I don't recall what it stands for. Agency -- we 24 have Chrysalis. 25 Q. Spell that, please.</p>
<p>15</p> <p>1 history; runaway, sexual acting out, aggressive. And it's 2 a unit that the case managers manage eight children on 3 their caseloads as opposed to an average case load of 18 4 to 20. 5 Q. And support services? 6 A. Support services, that entails background 7 screening, background screening of parents, relatives, 8 nonrelatives, foster parents, and pre-adoptive parents. 9 We have diligent search. 10 Q. What does that mean? 11 A. Where we look for missing parents. A diligent 12 search unit, a medical unit, and a transportation unit, 13 and now we now have a records management unit. 14 Q. Background screening, diligent search -- 15 A. Diligent search, medical, transportation, and 16 records management. 17 ICPC and courtesy supervision, interstate compact 18 for the placement of children. Those are children that 19 come from other states and are placed in Broward. So it's 20 called ICPC OTI, which really it's courtesy supervision 21 from children -- either they're Florida children placed in 22 Broward or other state's children placed in Broward. And 23 we have a unit that manages those children, because 24 they're not our primary cases. 25 Q. Okay.</p>	<p>17</p> <p>1 A. C-H-R-Y-S-A-L-I-S. 2 Q. C-H-R-Y? 3 A. C-H-R-Y-S-A-L-I-S, Chrysalis. 4 Q. What is Chrysalis? 5 A. A residential group care provider. They have a 6 shelter, which is Crescent. They have two boys' group 7 homes and one girls' group home. SOS Village. 8 Q. What's the name of that? 9 A. SOS Village. S-O-S. SOS Village. And 10 Children's Harbor. 11 Q. Is ACTS a governmental agency? 12 A. No. 13 Q. How many beds does it have? 14 A. ACTS, I believe they're up to 18 now, because 15 ACTS had a shelter which had nine beds called Asia and 16 Aris had nine beds, but we're consolidating them both into 17 one group home. Both into group homes. 18 Q. How many ChildNet beds are there at Henderson? 19 A. Henderson has 12. 20 Q. And -- 21 A. Excuse me, 18. Because they have Charlie, 22 Henderson, and Freedom. 18. 23 Q. How many beds are at Crescent? 24 A. They're licensed for 18, and I recall we're 25 contracting for 13.</p>

<p>18</p> <p>1 Q. What's the difference between Crescent and the 2 two boys' groups home and the one girls' group home? 3 A. Crescent is a shelter for boys. It's supposed to 4 be temporary care. The girls' group home are -- they 5 could be permanent placements as opposed to a shelter. 6 Q. You said there are two boys' group home plus 7 Crescent? 8 A. Yes. 9 Q. And how many beds each of those have? 10 A. Cassias has nine. Monarch -- Monarch, although 11 they're licensed and we contract with them, the children 12 are placed -- because Monarch is a group home for sexually 13 reactive boys. 14 Q. What's that mean? 15 A. They're sexually aggressive. They act out 16 sexually. And we -- not all the boys that are placed in 17 this home are ours. They're placed from other parts of 18 the state also. 19 Q. And how many beds does Monarch have? 20 A. I don't recall off the top of my head. You know 21 what? About six. I want to say six. And there's another 22 one, Apollo. Six. 23 Q. So is there anything characteristic of either 24 Cassias or Apollo? 25 A. They serve the same population. Boys. These are</p>	<p>20</p> <p>1 base? 2 A. Yes. And component. Yes. It's a therapeutic 3 component. 4 Q. And the girls are all just lumped together? 5 A. The girls are at Asia. And then Crescent also 6 has -- I'm sorry, Chrysalis has a girls' group home called 7 Lilac. 8 Q. And do the girls at Lilac have any particular 9 characteristics? 10 A. More or less the same. A lot of same issues. 11 Substance abuse issues. Some of them have been involved 12 in domestic sex trafficking. This particular provider has 13 done -- is very well trained in working with this 14 population. 15 Q. Is there one girls' group home Lilac or are there 16 more than one? 17 A. For Chrysalis, the one girls' group home. 18 Q. And SOS Village? 19 A. SOS Village, that is a 12 home -- they have 20 currently 12 homes now, and it's mostly for siblings 21 groups. It's more of a house-parent model that I believe 22 their model is four days on, three days off. So it's -- 23 and it's for sibling groups. 24 We also have Brookwood, which is for girls. 25 Q. Plus Children's Harbor?</p>
<p>19</p> <p>1 boys that are difficult to place in foster homes. They 2 have truant behaviors. They're physically aggressive. 3 They have DJJ histories, and they're very difficult to 4 place in foster homes. 5 Q. Monarch is the only one that is sexually 6 aggressive? 7 A. Yes. Aggressive reactive, yes. 8 Q. I'm sorry? 9 A. Aggressive reactive, yes. 10 Q. Are the kids who are in Crescent largely without 11 any particular pathology? 12 A. For the most part. There's some that may not, 13 but for the most part, they all have some issues; some 14 mental health issues, behavioral issues, substance abuse 15 issues. 16 Q. What determines whether or not a -- and Crescent 17 is all boys, right? 18 A. Yes. 19 Q. So what would determine whether or not a young 20 man would go to Crescent as opposed to Cassias or Apollo? 21 A. Availability of the beds. 22 Q. So Crescent, Cassias, and Apollo all have the 23 same client base? 24 A. Yes, more or less. 25 Q. And Monarch has a sexually aggressive client</p>	<p>21</p> <p>1 A. Children's Harbor is also a group home for 2 siblings, and they have a maternity group home. Either 3 pregnant teens or parenting teens. 4 Q. Can you tell me, there was one more -- 5 A. Brookwood. Brookwood is for our teen girls also, 6 although some of them may have some of the same behavior, 7 they're not as extreme as the other ones because they tend 8 to more hand-pick the girls that are placed there. So 9 their behaviors are not as extreme as the ones that may be 10 going into Aris or Lilac. 11 Q. Does ChildNet pay per bed per child or how -- 12 A. Yes. For filled bed. 13 Q. I mean, what is the standard price? 14 A. Oh, gosh, it varies from \$60 to just under \$300 15 per day. 16 Q. So is Brookwood towards the lower end of the 17 scale and Monarch towards the higher? 18 A. Yes. Yes. 19 Q. So the price per bed depends on what services 20 they're going to have to provide? 21 A. The individual needs of the child. 22 Q. Who chooses which child goes where? 23 A. We have a director -- a vice president of network 24 development, Neiko Shea. 25 Q. Spell that, please.</p>

<p style="text-align: right;">22</p> <p>1 A. N-E-I-K-O.</p> <p>2 Q. N-E-</p> <p>3 A. N-E-I-K-O, S-H-E-A.</p> <p>4 Q. Okay.</p> <p>5 A. Our assistant vice president of support services,</p> <p>6 her name is Deena, D-E-E-N-O {sic}, Ponto, P-O-N-T-O.</p> <p>7 They don't have the approval authority, because what we do</p> <p>8 is when we know there's an availability for a bed, we call</p> <p>9 the provider. We present the child to them in the sense.</p> <p>10 We send the documentation as to the history of the child,</p> <p>11 the needs of the child, so they can make a determination.</p> <p>12 But for a Cassias, Lilac, Monarch, Aris, it does require</p> <p>13 their approval.</p> <p>14 Q. Are these all non-for-profit groups?</p> <p>15 A. Yes. Although I don't recall if Chrysalis there</p> <p>16 was -- I heard -- I don't know if they have switched to</p> <p>17 for-profit, but other than that, they're all</p> <p>18 non-for-profit.</p> <p>19 Q. It's Chrysalis?</p> <p>20 A. Chrysalis, yes.</p> <p>21 Q. C-H-R-Y-S-T --</p> <p>22 A. S-A.</p> <p>23 Q. S-A?</p> <p>24 A. L-I-S.</p> <p>25 Q. Chrysalis?</p>	<p style="text-align: right;">24</p> <p>1 services.</p> <p>2 Then we have Dawn Liberta, who is the AVP of case</p> <p>3 management. And Teresa Kennedy who is the AVP of adoption</p> <p>4 and youth services for both Broward and Palm Beach. All</p> <p>5 three of them report to me.</p> <p>6 Q. Okay.</p> <p>7 And you joined ChildNet during its first year?</p> <p>8 A. Yes. I'm employee Number 11.</p> <p>9 Q. And how did you come to work for ChildNet?</p> <p>10 A. I was asked to come by Robert Israel, who was my</p> <p>11 immediate supervisor. He was vice president of client</p> <p>12 services.</p> <p>13 Q. And how long did you remain as -- how long did</p> <p>14 you remain working for Mr. Israel?</p> <p>15 A. Until he was asked -- I don't know -- I don't</p> <p>16 know if he was asked to resign or if he was terminated.</p> <p>17 Q. Do you know why?</p> <p>18 A. No, I don't know why.</p> <p>19 Q. Did you hear why?</p> <p>20 A. There was some inappropriate misconduct.</p> <p>21 Q. Do you know what it was supposed to be?</p> <p>22 A. And a lot of rumors about him. He did not get</p> <p>23 along very well with our CEO.</p> <p>24 Q. Who was that?</p> <p>25 A. Peter Balitsaris.</p>
<p style="text-align: right;">23</p> <p>1 A. Right.</p> <p>2 Q. Chrysalis is I think one of the more expensive</p> <p>3 places to place children?</p> <p>4 A. Yes. We refer to those as our "deep end."</p> <p>5 Q. What's the typical stay of a child in one of</p> <p>6 these places?</p> <p>7 A. It depends on whether their parents are working</p> <p>8 on their case plan tasks. It could be anywhere from</p> <p>9 30 days to ageing out. It depends on --</p> <p>10 Q. Which means turning 18?</p> <p>11 A. Turning 18.</p> <p>12 Some of them -- we get a lot of children who are</p> <p>13 6 to 15, 16, 17 years old, some within a week from turning</p> <p>14 18, two weeks from turning 18 coming into our system</p> <p>15 because of their ungovernable behaviors. So there's a lot</p> <p>16 of different factors.</p> <p>17 Q. So what did you do now as executive director that</p> <p>18 you did not do before?</p> <p>19 A. Attend more events. I'm very much involved with</p> <p>20 the, you know, the day-to-day operation because I oversee</p> <p>21 the three assistant vice presidents.</p> <p>22 Q. The AVPs are for what?</p> <p>23 A. The assistant vice president -- we have the three</p> <p>24 assistant vice presidents. One is for support services,</p> <p>25 Deena Ponto, and she's in charge of intake and support</p>	<p style="text-align: right;">25</p> <p>1 Q. How so?</p> <p>2 A. They butt heads a lot. Robert was not very</p> <p>3 forthcoming with information, but I don't know what the</p> <p>4 final issue was that prompted him to get terminated. I</p> <p>5 don't recall. I think it was in 2005 -- I don't recall.</p> <p>6 Q. How close were you with Mr. Balitsaris?</p> <p>7 A. I was close to him as professionally.</p> <p>8 Q. Were you friends?</p> <p>9 A. Outside of work? No.</p> <p>10 Q. Did you know that Wayne Black was conducting an</p> <p>11 investigation?</p> <p>12 A. Yes.</p> <p>13 Q. How did you find out about that?</p> <p>14 A. We had -- we had had some gift cards that had</p> <p>15 been missing probably for about a year. Gift cards here</p> <p>16 and there went missing. But this last incident was the</p> <p>17 supervisor -- in the permanency department for the</p> <p>18 independent living program had just bought a large amount</p> <p>19 of gift cards. I can't remember if it was Walmart or</p> <p>20 Target gift cards. She had put them in the safe, and the</p> <p>21 next morning they were gone.</p> <p>22 I immediately -- they notified me. I immediately</p> <p>23 notified our COO.</p> <p>24 Q. Who is that?</p> <p>25 A. Barbara Moss. We informed Leigh and we</p>

<p style="text-align: right;">26</p> <p>1 informed -- when we informed Leigh, Leigh suggested we 2 bring on Wayne Black to do an investigation. Then we 3 went -- Barbara and I went -- I don't recall if Leigh went 4 with us, but I know Barbara and I went to talk to Peter to 5 ask him if he had any problems if we hired Wayne Black to 6 do an investigation. We were hoping we would find out who 7 stole the gift cards. And Peter said absolutely. And 8 that's how Wayne was hired. 9 Q. Why did you go to Ms. McPhail? 10 A. Because we felt that it was employee issues. 11 They were missing from the safe within the agency. We 12 thought it would have been some internal issues that we 13 had going on. 14 Q. So were you and Ms. Moss asking McPhail to 15 investigate this? 16 A. I don't recall if we were asking her to 17 investigate it or we brought her in to discuss what was 18 going on, at which time she recommended Wayne Black. 19 Q. Well, you went to her because you wanted her to 20 find out what was going on? 21 A. Yes. And to inform her of what was going on. 22 Q. Let me show you what's being marked as Exhibit 1, 23 which is the executive summary of Mr. Black's 24 investigation, and ask you if you ever seen that before. 25 (Plaintiffs Exhibit 1 was marked for</p>	<p style="text-align: right;">28</p> <p>1 Q. Why not? 2 A. We do Level 2 background screenings. 3 Q. What's a Level 2 background screening? 4 A. It's -- they look at your -- it's the FBI -- the 5 FCIC, and SCSC, your federal and national -- your Florida 6 and your national criminal backgrounds. And if they have 7 disqualifiers, felony disqualifiers, those results are 8 sent to the Department, and the Department of Children and 9 family issues letters which let the employer know whether 10 they are employable or not. And there's -- those would be 11 your felony charges that would be listed on those. 12 (Discussion off the record.) 13 BY MR. AMLONG: 14 Q. When did you start doing Level 2 background 15 screenings? 16 A. To work at ChildNet, you have to have a Level 2 17 background screen. 18 Q. How did Brady Grant and Steve Williams get hired? 19 MR. LOFFREDO: Object to form, 20 foundation. 21 BY MR. AMLONG: 22 Q. Do you know who Brady Grant and Steve Williams 23 got hired? 24 A. No, I don't. 25 Q. When I say Brady Grant, do you know who I'm</p>
<p style="text-align: right;">27</p> <p>1 Identification.) 2 THE WITNESS: I don't recall having seen 3 it. I know of the report. I knew of -- that 4 there was a report. I don't recall seeing it 5 because I don't recall having seen either -- 6 the background screening. I knew of the 7 issues of the background -- 8 BY MR. AMLONG: 9 Q. What were the issues of the background screening? 10 A. That there were two employees that had some 11 felony charges. 12 Q. How did you know that? 13 A. Probably in discussions with Barbara Moss or 14 Peter. But I was aware of those after the report came 15 out. I knew of the report. I don't recall if I saw the 16 report. 17 Q. What are the law, rules or regulations? 18 A. What? 19 Q. What are the laws, rules or regulations, if you 20 know, about hiring convicted felons to work in an agency 21 such as ChildNet. 22 A. They're not allowed to. Someone with a -- well, 23 can I -- it depends -- let me -- it depends on the felony. 24 But for the most part, we don't hire staff with felony 25 background.</p>	<p style="text-align: right;">29</p> <p>1 talking about? 2 A. I remember Brady and Steve, yes. 3 Q. Now, did Mr. Grant worked for you as assistant 4 facilities coordinator? 5 A. Brady? 6 Q. Yes. 7 A. No. 8 Q. What about Mr. Williams? 9 A. No. Neither one of them worked for me. 10 Q. Do you know for whom they did work? 11 A. I believe Brady worked for Steve, who was the 12 facilities manager. And Steve worked for Peter 13 Greenhouse, our CFO. 14 Q. So it was Peter Greenhouse, Steve Williams, and 15 then Brady Grant? 16 A. Yes. 17 Q. Mr. Williams appears, from Mr. Black's report, to 18 have been involved with vehicle repairs. 19 Was that part of the transportation function? 20 A. Vehicle maintenance, no, not at the time. 21 Q. Did it become -- 22 A. After this incident, it became part of support 23 services. Let me rectify. It had been under support 24 services, then it was taken away from support services and 25 given to facilities. And then after this incident, it</p>

<p style="text-align: right;">30</p> <p>1 went back to -- and it was with support services for a 2 very short time. It went to facilities after the incident 3 and went back to support services. 4 Q. When was it under support services? 5 A. I don't recall the dates. It was a very short 6 period of time. 7 Q. Was either Mr. Williams or Mr. Grant either of 8 your employee? 9 A. No. 10 Q. When you and Ms. Moss went to see Mr. Balitsaris, 11 had Ms. McPhail already been told to begin an 12 investigation? 13 MR. LOFFREDO: Object to the form, 14 foundation. I don't believe she testified 15 Ms. McPhail was told to start an 16 investigation. 17 BY MR. AMLONG: 18 Q. Well, when you and Ms. Moss first went to 19 Mr. Balitsaris, had Ms. McPhail been involved in the 20 inquiry yet? 21 A. Yes. 22 Q. And take me through this chronology. 23 A. You know, I don't recall the chronology. 24 Q. Well, somebody comes to you and says: All of our 25 gifts carts are gone?</p>	<p style="text-align: right;">32</p> <p>1 investigation Mr. Black was going to undertake? 2 A. My understanding was that he was going to look 3 into and question the different persons involved as to why 4 those credit {sic} cards were missing. 5 Q. Did you become aware at some point that the 6 investigation had become broader than that? 7 A. Sometime during the investigation, we had a 8 laptop that went missing. 9 Q. Okay. 10 And whose laptop was this and what, if anything, 11 did it contain? 12 A. It was the laptop that contained the information 13 for life scanning. 14 Q. What is life scanning? 15 A. Okay. It is the -- when an individual comes in 16 for electronic fingerprinting, we enter their personal 17 information into the laptop, and then we roll their 18 electronic prints that are submitted to FDLE 19 electronically, and it contained a lot of personal 20 information. 21 Q. What -- what -- 22 A. That fell into the investigation. 23 Q. What goes on in that -- you say personal 24 information. Tell me what personal information there is. 25 A. Name, address, date of birth, social security,</p>
<p style="text-align: right;">31</p> <p>1 A. Are missing. I would have immediately called our 2 COO. Probably not even called. Walked straight to her 3 office and told her what happened. Probably at that time, 4 we either went -- you know, I don't recall. I know we 5 reached out to Leigh because the three of us were 6 together. I do recall the three of us being together in 7 Barbara's office and talking about what was going on, what 8 had happened, and wanting to get to the bottom of it. And 9 then Leigh recommended Wayne. 10 Q. What did Ms. McPhail say about Mr. Black? 11 A. That she knew someone who was a private 12 investigator that she highly recommended. And I 13 personally quite honestly wanted to get to the bottom of 14 this because this was stealing from the kids, and I was 15 hoping we would be able to find out who was actually 16 stealing them. 17 Q. Was Ms. McPhail with you when you went to see 18 Mr. Balitsaris? 19 A. I don't remember if she was with us or not. I 20 remember Barbara and I going, but I don't remember if she 21 came with us. 22 Q. Do you recall whether or not you and Ms. Moss 23 went back a second time to see Mr. Balitsaris? 24 A. I don't recall. 25 Q. What did you understand to be the scope of the</p>	<p style="text-align: right;">33</p> <p>1 height and weight, aliases. The reason I remember all of 2 this, I just recently filled one out. 3 Q. And who was being life scanned? 4 A. Parents, relatives, nonrelatives. 5 Q. Is this, if your kid is in trouble, you get life 6 scanned? 7 A. Prior to placing the children back in the home, 8 we ask the parent to come in for life scanning to run 9 their electronic fingerprints to see if there's any 10 criminal history between the time of the removal to the 11 time we're looking to reunify. 12 When we place children with relatives and 13 nonrelatives, we do a complete background screening, 14 foster parents, pre-adoptive parents. And it also life 15 scans employees. 16 For parents, relatives, nonrelatives, the 17 information -- the federal information is sent to the 18 Broward Sheriff's Office. They issue us the letters. 19 For foster, adoptive and employees, the 20 information goes to the Department of Children and 21 Families. 22 Q. And they issue the letters telling you whether or 23 not -- 24 A. There's a disqualifier. 25 Q. Okay.</p>

<p style="text-align: right;">34</p> <p>1 Do you know whether or not any life scanning was</p> <p>2 ever done concerning Mr. Grant/Washington or Mr. Williams?</p> <p>3 A. I don't know.</p> <p>4 Q. Does the no felony rule prohibit --</p> <p>5 A. What rule? I'm sorry.</p> <p>6 Q. You can't hire convicted felon rule, does that</p> <p>7 prohibit the hiring of people in such positions that were</p> <p>8 held by Mr. Grant and Mr. Williams?</p> <p>9 A. Unless it was authorized by someone to hire them</p> <p>10 or waived their criminal background, I don't see where</p> <p>11 they can be hired. I would imagine it would have to be</p> <p>12 waived.</p> <p>13 Q. Do you know if that's an internal ChildNet rule</p> <p>14 or that's a law, rule, or regulation?</p> <p>15 A. I believe -- the Department has -- if someone has</p> <p>16 a criminal background and they want to be employed, they</p> <p>17 can go -- can I ask my attorney a question?</p> <p>18 MR. LOFFREDO: No. If you don't know</p> <p>19 the answer, you don't know the answer.</p> <p>20 THE WITNESS: I don't know the answer.</p> <p>21 (Plaintiff's Exhibit 2 was marked for</p> <p>22 Identification.)</p> <p>23 BY MR. AMLONG:</p> <p>24 Q. Okay.</p> <p>25 What was your relationship with Mr. Greenhough?</p>	<p style="text-align: right;">36</p> <p>1 Q. How did you get along with Ms. McPhail?</p> <p>2 A. Um, it was challenging.</p> <p>3 Q. How so?</p> <p>4 A. Leigh at times had been condescending,</p> <p>5 disrespectful, rude to me. I remember one particular</p> <p>6 incident in front my director she was condescending and</p> <p>7 disrespectful. And I had gone to Barbara Moss, who she</p> <p>8 supervised, and I told her. And it hadn't been the first</p> <p>9 time. So I had told Barbara, you know, let me talk to</p> <p>10 talk her. So I had called her to my office, and I said,</p> <p>11 you know --</p> <p>12 Q. You called Ms. McPhail?</p> <p>13 A. Yes.</p> <p>14 And I said, you know, I want to talk to you as a</p> <p>15 vice president or as a friend. You know, this is not</p> <p>16 okay.</p> <p>17 We had a conversation. I thought it was a good</p> <p>18 conversation. But then the next day, I get a phone call</p> <p>19 from Ms. Moss telling me that -- not to speak to Leigh and</p> <p>20 tell her; that Leigh insulted how dare I say that I'm</p> <p>21 going to talk to her as a friend; she doesn't consider</p> <p>22 myself a friend.</p> <p>23 Q. Okay.</p> <p>24 You said she had been condescending and</p> <p>25 disrespectful in front of the director. Which director</p>
<p style="text-align: right;">35</p> <p>1 A. Other than him being the CFO of the agency, none.</p> <p>2 Q. No personal relationship?</p> <p>3 A. No.</p> <p>4 Q. Did you become aware of allegations made against</p> <p>5 Mr. Greenhough by the Wayne Black investigation?</p> <p>6 A. Yes.</p> <p>7 Q. What were those investigations? What are those</p> <p>8 allegations?</p> <p>9 A. As I recall, something to do with an invoice for</p> <p>10 a wall or something with -- there was some IT issues of</p> <p>11 the way the inventory was kept and the record of the --</p> <p>12 the inventory of the equipment. And there were some --</p> <p>13 there were issues with the vehicle maintenance. And</p> <p>14 that's all I recall.</p> <p>15 Q. Did the investigation go further than you had</p> <p>16 intended it to go?</p> <p>17 A. It did.</p> <p>18 Q. Do you think it went too far?</p> <p>19 A. I don't know if I can say -- whether I can say</p> <p>20 that I felt it did go too far or not. I thought they were</p> <p>21 looking into credit cards and it just the credit card</p> <p>22 situation, and it just appeared that it took a life of its</p> <p>23 own.</p> <p>24 Q. Did you think this is a good thing or bad thing?</p> <p>25 A. No, I think it's a good thing.</p>	<p style="text-align: right;">37</p> <p>1 was that?</p> <p>2 A. Michelle Gamelin, our director of intake</p> <p>3 placement.</p> <p>4 Q. Gavlin, G-A-V --</p> <p>5 A. Gamelin, G-A-M-E-L-I-N.</p> <p>6 We were on a conference call.</p> <p>7 Q. And how, if at all, was Ms. McPhail condescending</p> <p>8 and disrespectful?</p> <p>9 A. What do you mean? Can you ask me again.</p> <p>10 Q. Well, did you not describe her as being</p> <p>11 condescending or disrespectful?</p> <p>12 A. Yes.</p> <p>13 Q. Tell me what she said or did that was</p> <p>14 condescending or disrespectful?</p> <p>15 A. I don't remember exactly the words she used, but</p> <p>16 it was in her tone and her response to me to statements</p> <p>17 that I had made. I don't recall the context of the</p> <p>18 conversation.</p> <p>19 Q. What was the conversation about?</p> <p>20 A. I don't recall.</p> <p>21 Q. When did this conversation occur?</p> <p>22 A. The date, I don't recall.</p> <p>23 Q. Was it when Mr. Balitsaris was still there or</p> <p>24 after Mr. Balitsaris had been let go?</p> <p>25 A. I don't know. I really don't recall the date. I</p>

<p style="text-align: right;">38</p> <p>1 remember the incident. I remember calling Barbara. I</p> <p>2 remember talking to Leigh, but I don't recall the context</p> <p>3 of the conversation.</p> <p>4 Q. Can you remember -- can you give me any examples</p> <p>5 of behavior or language that Ms. McPhail used that you</p> <p>6 felt was condescending?</p> <p>7 A. I don't recall the exact words that she used. I</p> <p>8 would be making it up. I don't recall.</p> <p>9 Q. Okay.</p> <p>10 Can you recall any words that she used that were</p> <p>11 disrespectful?</p> <p>12 A. Words? I can't recall. All I can tell you is</p> <p>13 how I felt.</p> <p>14 Q. Was it just this one incidence?</p> <p>15 A. No. Leigh -- we had a lot of complaints from a</p> <p>16 lot of our directors about Leigh's tone.</p> <p>17 Q. Tell me what they were.</p> <p>18 A. That she was disrespectful. There was complaints</p> <p>19 about her performance in the sense -- Leigh knew HR law</p> <p>20 well, very well, but Leigh was not -- was never in the</p> <p>21 office. I shouldn't say never as a generality, but she</p> <p>22 missed a lot of days of work. Supposedly worked from</p> <p>23 home, come in late, would leave early. There was a lot of</p> <p>24 delays in getting things done. Leigh didn't manage her</p> <p>25 people well. There was a lot of frustration from the</p>	<p style="text-align: right;">40</p> <p>1 from home?</p> <p>2 A. Quite a bit. I don't know. I can't tell you how</p> <p>3 much, but it was quite a bit.</p> <p>4 Q. How do you know she was working from home?</p> <p>5 A. Because that's what her COO, her boss would tell</p> <p>6 me.</p> <p>7 Q. Barbara Moss would tell you that?</p> <p>8 A. Barbara, yes. Because when we would ask where is</p> <p>9 Leigh, she's working from home.</p> <p>10 Q. Ms. Moss approved this?</p> <p>11 A. I imagine she approved it. There was -- I know</p> <p>12 towards probably the end of Leigh's employment there,</p> <p>13 Barbara was very frustrated because there was times that</p> <p>14 Leigh wouldn't even call her and let her know. And she</p> <p>15 had to bring her into her office and let her know that she</p> <p>16 needed to be apprised of when she wasn't going to come in</p> <p>17 or when she was going to be late. I remember her sharing</p> <p>18 her frustrations with me.</p> <p>19 Q. So you know that Ms. Moss was frustrated about</p> <p>20 Ms. McPhail not coming in because Ms. Moss told you?</p> <p>21 A. Yes.</p> <p>22 Q. Did you ever witness any of these conversations?</p> <p>23 A. No.</p> <p>24 Q. This was towards the end of her employment?</p> <p>25 A. When she expressed them to me, yes. I don't know</p>
<p style="text-align: right;">39</p> <p>1 directors in getting things done from talent management.</p> <p>2 MR. LOFFREDO: For the record, talent</p> <p>3 management is HR.</p> <p>4 THE WITNESS: I'm sorry, human</p> <p>5 resources.</p> <p>6 MR. LOFFREDO: It's just called talent</p> <p>7 management now instead of HR.</p> <p>8 MR. AMLONG: Okay.</p> <p>9 MR. LOFFREDO: I don't think that came</p> <p>10 up at any prior depositions.</p> <p>11 BY MR. AMLONG:</p> <p>12 Q. Okay.</p> <p>13 She was never in the office and worked from home.</p> <p>14 She was --</p> <p>15 A. Late. She came in late.</p> <p>16 Q. -- not managing her people well.</p> <p>17 A. Not managing the people. Come in late. She</p> <p>18 would leave early. Her staff was sometimes there;</p> <p>19 sometimes they were not. Getting things done from HR took</p> <p>20 days. There was a lot of frustration from staff,</p> <p>21 complaints.</p> <p>22 Q. Now, is this behavior behavior that occurred</p> <p>23 before or after Mr. Balitsaris was terminated?</p> <p>24 A. Before and after.</p> <p>25 Q. And how many times are you aware of her working</p>	<p style="text-align: right;">41</p> <p>1 if she felt it before, but that's the time that she</p> <p>2 expressed it to me.</p> <p>3 Q. Do you know, by the way, where Ms. Moss is now?</p> <p>4 A. Yes.</p> <p>5 Q. Where?</p> <p>6 A. She's in Orlando, I believe.</p> <p>7 Q. Okay.</p> <p>8 Do you know where she's working?</p> <p>9 A. Yes. Yes.</p> <p>10 Q. Where is that?</p> <p>11 A. One Hope United.</p> <p>12 Q. And what's her job?</p> <p>13 A. She's the CEO.</p> <p>14 Q. What is One Hope United?</p> <p>15 A. It's a CMO. It's a case management organization</p> <p>16 that's subcontracted by the community-based-care lead</p> <p>17 agency. There's different models throughout the state.</p> <p>18 Q. So she's like one of your contractors here?</p> <p>19 A. Yes and no. ChildNet in Broward does in-home</p> <p>20 case management. In other areas of the state, they</p> <p>21 subcontract for case management and foster home</p> <p>22 maintenance, which is the foster parent recruitment</p> <p>23 retention. She has that, if you want to call it that,</p> <p>24 bundle in different circuits.</p> <p>25 Q. This is not just in Orange County?</p>

<p style="text-align: right;">42</p> <p>1 A. No. I believe she's also in Hillsborough, but I 2 don't recall what other ones she's in, because there's 3 some little ones up there. 4 Q. Okay. 5 When was the last time you spoke to her? 6 A. Two days ago. 7 Q. About what? 8 A. About getting her -- getting permission -- 9 telling her that Mr. Loffredo was going to call her. 10 Q. Do you have her phone number? 11 A. I do. 12 Q. Can you give it to me, please. 13 A. Sure. (954) 328-4416. 14 Q. (954) 328-4416? 15 A. Yes. 16 Q. Did you discuss anything about Ms. McPhail during 17 that conversation? 18 A. I discussed that I was being deposed and that 19 Mr. Loffredo wanted to speak with her. 20 Q. What else, if anything, did you say to her? 21 A. That's all. 22 Oh, regarding Ms. McPhail, correct? 23 Q. Yes. 24 A. That's all. 25 Q. Well, what else did you talk about?</p>	<p style="text-align: right;">44</p> <p>1 didn't take -- 2 Q. Who would say they're not in? 3 A. Whoever was in the area when we were looking for 4 somebody in particular. 5 Q. Other than what you perceived as a lack of 6 diligent attendance, how else did she not manage her 7 people well? 8 A. There was a delay in the response to getting 9 things done when things were asked of HR. 10 Q. For example? 11 A. If there were corrective actions, if there were 12 terminations, there was a delay in response. 13 Q. Give me an example. 14 A. There was a -- I believe it was a termination 15 that took probably about two weeks to get it done, two 16 weeks, a little bit over two weeks. And the day it was 17 supposed to get done, Leigh didn't come in. 18 Q. Do you remember who the person was? 19 A. No. 20 Q. Do you know why -- 21 A. It was done the next day. 22 Q. Do you know why Ms. McPhail did not come in that 23 day? 24 A. The excuse was because it was raining. 25 Q. Is there anything else that you can think of that</p>
<p style="text-align: right;">43</p> <p>1 A. Personal things. 2 Q. Okay. 3 You said that Ms. McPhail did not manage her 4 people well. Give me an example of that, please. 5 A. Well, if she wasn't -- her people would come in 6 late, they would leave early. 7 Q. Who? 8 A. It was Scott, I forgot his last name. Tiffany, I 9 forgot her last name. Crista. 10 Q. C-H-R? 11 A. C-R-I-S-T-A. Crista Banas, C-R-I-S-T-A 12 B-A-N-A-S. 13 Q. Okay. 14 A. I don't recall the names of -- of the other 15 people that were there. 16 Q. How do you know they would come in late and leave 17 early? 18 A. Because we would walk into their areas and they 19 wouldn't be there, and we were told they weren't there 20 yet. And I would have staff complain to me. 21 Q. Did you ever witness them not being there? 22 A. Yes. 23 Q. Do you have any idea what they were doing when 24 they weren't at their desk? 25 A. I don't. They would say they're not in. I</p>	<p style="text-align: right;">45</p> <p>1 was delayed? 2 A. There was a lot of things that were delayed. I 3 just don't -- I could probably sit with my directors and 4 get a list of things, but I -- the people would come in 5 and share their frustration. We would -- we would go to 6 Barbara, express the frustration. 7 Q. What would Ms. Moss say? 8 A. That she would address them with Leigh. 9 Q. Did she ever tell you that she had addressed 10 them? 11 A. Yes. 12 Q. What did she say that Ms. McPhail had said? 13 A. She didn't go into that. 14 Q. You said there were lots of frustrations from the 15 staff. What were the frustrations? 16 A. The lack of accessibility to HR staff, the delay 17 in response time. 18 Q. What else? 19 A. The tone and then the manner in which they were 20 addressed. 21 Q. Tell me in what tone and manner Ms. McPhail 22 addressed the people. 23 A. Some of the complaints were that she was 24 condescending; in other words, trying to make them look 25 like they don't know what they were talking about.</p>

<p style="text-align: right;">46</p> <p>1 Q. Who said that?</p> <p>2 A. Different staff.</p> <p>3 Q. Tell me any of them.</p> <p>4 A. I can't tell you one particular one. I know that</p> <p>5 I had complaints from Lila Cavaso (phonetic) who was the</p> <p>6 director of contracts and licensing. She had complained</p> <p>7 to me about her.</p> <p>8 My directors had complained to me about her.</p> <p>9 Q. What did Ms. Cavaso (phonetic) complain about?</p> <p>10 A. Probably all of the above.</p> <p>11 Q. Well, I mean, I'm not even sure what "all the</p> <p>12 above" is because --</p> <p>13 A. The lack of responsiveness, the condescending</p> <p>14 tone.</p> <p>15 Q. Can you give me any specifics whatsoever?</p> <p>16 A. I can't.</p> <p>17 Q. Did you ever put any of this in writing?</p> <p>18 A. I may have put some things in writing. I had</p> <p>19 conversation was Barbara, or I would direct them to</p> <p>20 Barbara, to go see Barbara.</p> <p>21 Q. Did you ever talk to Mr. Benitez concerning</p> <p>22 Ms. McPhail?</p> <p>23 A. I don't recall having a conversation with</p> <p>24 Mr. Benitez, because Leigh, for the most part, reported to</p> <p>25 Barbara.</p>	<p style="text-align: right;">48</p> <p>1 Q. And do you recall whether or not the ChildNet</p> <p>2 management team was satisfied with USI?</p> <p>3 A. There were discussions about what I recall that</p> <p>4 they were charging too much money. I don't recall what</p> <p>5 "too much money" is.</p> <p>6 Q. And do you recall who was -- when you say "they,"</p> <p>7 you're talking about USI?</p> <p>8 A. Yes. Their brokerage fee was very high.</p> <p>9 Q. Do you recall who told you that?</p> <p>10 A. In specific, I believe it was just in</p> <p>11 discussions. I don't remember who in specific said it,</p> <p>12 no.</p> <p>13 Q. Did you engage in any group assessment of USI</p> <p>14 versus a broker named Edify?</p> <p>15 A. I don't recall.</p> <p>16 Q. Do you remember an insurance brokerage that was</p> <p>17 being suggested by Joseph Epstein?</p> <p>18 A. I don't recall. I think we went with Site Land</p> <p>19 (phonetic). We're with Site Land (phonetic) right now,</p> <p>20 but -- I don't recall.</p> <p>21 Q. Okay. What was your opinion of Ms. McPhail's</p> <p>22 truth and veracity?</p> <p>23 A. I don't think she told the truth all the time.</p> <p>24 Q. Give me an example.</p> <p>25 A. There was an incident where there was an -- I</p>
<p style="text-align: right;">47</p> <p>1 Q. Are you aware that for a while Ms. McPhail did</p> <p>2 not report to Ms. Moss because she felt that she could not</p> <p>3 do so after having engaged in the Wayne Black</p> <p>4 investigation?</p> <p>5 A. I don't recall.</p> <p>6 Q. Do you recall when there was a review of</p> <p>7 ChildNet's group health insurance?</p> <p>8 A. A review?</p> <p>9 Q. Benefits -- well, do you recall when there was</p> <p>10 some discussion in changing insurance brokerage in 2008?</p> <p>11 A. I recall there was a conversation about the</p> <p>12 possibility of changing. I don't remember if it was</p> <p>13 insurance brokers or insurance companies, because Aetna</p> <p>14 had raised their premiums. They were very high.</p> <p>15 There might have been -- I don't recall exactly</p> <p>16 what the detail -- I know the issues of the high premiums</p> <p>17 and if we were going to go with Humana or -- there was</p> <p>18 another company, another insurance company that they were</p> <p>19 thinking of going with, but because of their record in</p> <p>20 paying claims and the -- Vista, I think it was, whether we</p> <p>21 were going to go with Humana or Vista. I think we opted</p> <p>22 to go in with Humana.</p> <p>23 Q. Do you remember being with United Healthcare</p> <p>24 through a brokerage called USI?</p> <p>25 A. Yes.</p>	<p style="text-align: right;">49</p> <p>1 believe it was transportation -- some type of manual that</p> <p>2 they wanted to roll out, and it was rolled out without my</p> <p>3 knowledge or my -- the -- who was the director at the</p> <p>4 time, her knowledge of it being implemented.</p> <p>5 And Ms. McPhail stated that it was -- the</p> <p>6 supervisor had been involved in the rollout, and she</p> <p>7 hadn't been involved.</p> <p>8 Q. Did you ever speak to Ms. McPhail about that?</p> <p>9 A. I don't recall.</p> <p>10 Q. Anything else?</p> <p>11 A. No.</p> <p>12 (Plaintiff's Exhibit 3 was marked for</p> <p>13 Identification.)</p> <p>14 BY MR. AMLONG:</p> <p>15 Q. Let me show you what's being marked as</p> <p>16 Plaintiff's Exhibit 3 and ask you if you recognize that</p> <p>17 document.</p> <p>18 A. I think this is the incident that I just</p> <p>19 described.</p> <p>20 Q. Okay.</p> <p>21 And what was your basis for writing to Mr. Rein,</p> <p>22 quote, "Leigh lied again"?</p> <p>23 A. This hadn't been the first incident where I had</p> <p>24 felt that she hadn't been truthful.</p> <p>25 Q. Tell me any other incident.</p>

<p>50</p> <p>1 A. I wish I had documented them all.</p> <p>2 Q. Did you document any?</p> <p>3 A. I guess this isn't -- the only one that -- that I</p> <p>4 had documented.</p> <p>5 MR. LOFFREDO: Off the record.</p> <p>6 (Discussion off the record.)</p> <p>7 BY MR. AMLONG:</p> <p>8 Q. Did you have any discussion with -- did you have</p> <p>9 any discussion with Ms. McPhail about the assertion that</p> <p>10 she had lied concerning the approval of the manual?</p> <p>11 A. I believe -- I don't recall. I want you to</p> <p>12 understand something. The magnitude of my</p> <p>13 responsibilities and the things that I have to worry on a</p> <p>14 day-to-day basis about clients, I didn't -- if it's an</p> <p>15 issue, I would bring it up to Barbara, bring it up to</p> <p>16 Larry. At the time, Larry was new to the position, so he</p> <p>17 was beginning to learn some of these things and some of</p> <p>18 the issues that we were having. I didn't have time to be</p> <p>19 documenting everything. It was a lot easier to pick up</p> <p>20 the phone and call and tell Barbara.</p> <p>21 If something came in an e-mail and if I had time</p> <p>22 to do something with it, I would send it. I got -- well,</p> <p>23 you heard my phone ringing. Those are e-mails coming in.</p> <p>24 (Plaintiff's Exhibit 4 was marked for</p> <p>25 Identification.)</p>	<p>52</p> <p>1 A. I don't -- I don't recall today. I may have</p> <p>2 known back then. I don't recall today. I don't recall.</p> <p>3 Q. Let me show you what I'll be marking as</p> <p>4 Plaintiff's Exhibit Number 5.</p> <p>5 (Plaintiff's Exhibit 5 was marked for</p> <p>6 Identification.)</p> <p>7 BY MR. AMLONG:</p> <p>8 Q. And ask you if you recognize that e-mail chain?</p> <p>9 A. Yes.</p> <p>10 Q. And what was the issue here?</p> <p>11 A. We need to do car seat training -- I'm sorry, it</p> <p>12 wasn't car seat training, it was CPR training for our</p> <p>13 child advocate assistants. Those are our equivalent to</p> <p>14 our drivers. And our director of professional development</p> <p>15 didn't have the certificate showing whether they had</p> <p>16 taken -- not only whether they had taken a course, but if</p> <p>17 it was an active, valid -- that they had not expired. She</p> <p>18 didn't have them in her HR files -- I'm sorry in her</p> <p>19 training files so --</p> <p>20 Q. Meaning Ms. Kamin does not have them in her --</p> <p>21 A. In her training files. So she had asked</p> <p>22 permission to look at the HR files, and that she would do</p> <p>23 it herself to see who needed to have the training.</p> <p>24 Q. This is who needed CPR certificates so they could</p> <p>25 take car seat training, correct?</p>
<p>51</p> <p>1 BY MR. AMLONG:</p> <p>2 Q. Let me show you what's previously been marked as</p> <p>3 Exhibit 4 and ask you if you recognize that e-mail?</p> <p>4 A. Yes. That was just the incident I spoke about</p> <p>5 previously.</p> <p>6 Q. About delay in termination?</p> <p>7 A. Yes.</p> <p>8 Q. Did you discuss with Ms. McPhail why the</p> <p>9 termination was delayed?</p> <p>10 A. I don't recall if I called her directly and had a</p> <p>11 discussion with her or not. I don't recall.</p> <p>12 Q. Do you recall if there were any compliance</p> <p>13 concerns?</p> <p>14 A. Meaning?</p> <p>15 Q. Meaning whether or not the person was being</p> <p>16 terminated in compliance with the Civil Rights Act of</p> <p>17 1964?</p> <p>18 A. Well, she would have been doing the termination,</p> <p>19 so she would have determined that prior to the</p> <p>20 termination.</p> <p>21 Q. But what I'm asking is do you know whether or not</p> <p>22 the delay was because she was investigating that?</p> <p>23 A. Oh, I don't know that.</p> <p>24 Q. Do you have any idea what the reason for the</p> <p>25 delay was, except for the one-day delay because of rain?</p>	<p>53</p> <p>1 A. No. I don't know how this got involved with the</p> <p>2 car seat training. It was really CPR.</p> <p>3 Q. Where were the CPR certificates? Were they in</p> <p>4 the HR file?</p> <p>5 A. They were ultimately found in the HR files.</p> <p>6 Q. How do you know that?</p> <p>7 A. Okay. You see the e-mail from Maxine dated</p> <p>8 May 10th, it says, "Sylvia, if you haven't read my last</p> <p>9 message, we found the backup cards we were looking for in</p> <p>10 the HR files."</p> <p>11 So somehow she got into them. I don't know how.</p> <p>12 Q. So the only thing you knew about this is what</p> <p>13 Ms. Kamin told you?</p> <p>14 A. Yes.</p> <p>15 Q. She said that she found backups, not the</p> <p>16 originals, in the HR files?</p> <p>17 A. That's what the e-mail says, yes. Backup would</p> <p>18 be a picture of the CPR certificate itself.</p> <p>19 Q. Let me show you Exhibit 6, 7, 8, and 9, which</p> <p>20 you're an addressee, and maybe 10 as well, and ask you if</p> <p>21 that refreshes your memory concerning the 2008 evaluation</p> <p>22 of the insurance broker?</p> <p>23 (Plaintiff's Exhibits 6, 7, 8, 9 and 10</p> <p>24 were marked for Identification.)</p> <p>25 THE WITNESS: What was your question?</p>

<p style="text-align: right;">54</p> <p>1 BY MR. AMLONG:</p> <p>2 Q. Does that refresh your memory concerning your</p> <p>3 involvement in evaluating the insurance brokerage</p> <p>4 selection for 2008/2009?</p> <p>5 A. Somewhat, but it was ultimately not my decision.</p> <p>6 Q. Do you remember --</p> <p>7 A. Now, I -- you know, I'm reading this, and it's</p> <p>8 refreshing my mind, yes.</p> <p>9 Q. Do you remember there being a vote of the upper</p> <p>10 management concerning with which group to go, Edify or</p> <p>11 USI?</p> <p>12 A. A vote? I don't recall if there was a vote.</p> <p>13 Q. Do you remember Ms. McPhail presenting you with</p> <p>14 documentation comparing the product being offered through</p> <p>15 USF and Edify?</p> <p>16 A. It's here so -- it's here, so she did present it,</p> <p>17 yes.</p> <p>18 Q. Did you ever become aware that Edify was a CPA</p> <p>19 client of Mr. Epstein's?</p> <p>20 A. I see in the e-mails there's mention of Joey</p> <p>21 Epstein. I don't recall knowing that he was a CPA client</p> <p>22 of Mr. Epstein's.</p> <p>23 Q. So Mr. Epstein never told you this?</p> <p>24 A. If he did, I don't recall.</p> <p>25 Q. Mr. Berkowitz never told you this?</p>	<p style="text-align: right;">56</p> <p>1 answer that. I'm sure I did, but I don't</p> <p>2 recall what I said or the context of the</p> <p>3 conversation or...</p> <p>4 BY MR. AMLONG:</p> <p>5 Q. Did you ever ask that Ms. McPhail be terminated?</p> <p>6 A. Ask that she be terminated? I don't recall</p> <p>7 asking that she be terminated. I'm sure that I shared my</p> <p>8 frustrations with her department, yes.</p> <p>9 Q. With Mr. Benitez?</p> <p>10 A. I don't recall any specific, but I know I've</p> <p>11 shared him with Barbara, and I'm sure I shared them with</p> <p>12 him, but I can't recall when, what date.</p> <p>13 Q. Did Mr. Benitez ever say anything to you about</p> <p>14 Ms. McPhail?</p> <p>15 A. Now that you're asking the question, there was --</p> <p>16 there was -- there's one incident where Ms. McPhail went</p> <p>17 to some training classes with, I believe it was ADP, and</p> <p>18 she was very inappropriate, and we got an e-mail</p> <p>19 complaining about her being late to the training and her</p> <p>20 inappropriate behavior during the training. And</p> <p>21 Mr. Benitez was very upset about it.</p> <p>22 Q. From whom did you get the e-mail?</p> <p>23 A. I don't recall. I remember of an e-mail, but I</p> <p>24 don't recall who the e-mail was from. A statement being</p> <p>25 made there was an e-mail being sent.</p>
<p style="text-align: right;">55</p> <p>1 A. If he did, I don't recall.</p> <p>2 Q. Well, wouldn't you have wanted to know that</p> <p>3 before you voted?</p> <p>4 MR. LOFFREDO: Object to form,</p> <p>5 foundation. She did not testify she even</p> <p>6 recalled having a vote, and she said it</p> <p>7 wasn't her decision.</p> <p>8 BY MR. AMLONG:</p> <p>9 Q. Did you discuss Ms. McPhail with Mr. Benitez?</p> <p>10 MR. LOFFREDO: Asked and answered, but</p> <p>11 go ahead.</p> <p>12 THE WITNESS: What do you mean? I don't</p> <p>13 understand the question.</p> <p>14 BY MR. AMLONG:</p> <p>15 Q. Well, did you ever complain to Mr. Benitez about</p> <p>16 Ms. McPhail?</p> <p>17 MR. LOFFREDO: Objection, asked and</p> <p>18 answered.</p> <p>19 Go ahead.</p> <p>20 THE WITNESS: What do you mean? Excuse</p> <p>21 me.</p> <p>22 MR. LOFFREDO: I'm just making an</p> <p>23 objection for the record. You can ahead and</p> <p>24 answer his question.</p> <p>25 THE WITNESS: I don't even know how to</p>	<p style="text-align: right;">57</p> <p>1 Q. What did Mr. Benitez say?</p> <p>2 A. He was very frustrated with her behavior.</p> <p>3 Q. Well, that's not my question. My question is,</p> <p>4 what did he say?</p> <p>5 A. I don't recall.</p> <p>6 Q. Did Mr. Benitez ever consult with you as to</p> <p>7 whether or not Ms. McPhail should be terminated?</p> <p>8 A. I don't recall.</p> <p>9 Q. Tell me what your involvement was in the ADP</p> <p>10 controversy.</p> <p>11 A. Involvement?</p> <p>12 MR. LOFFREDO: Object to the form, and</p> <p>13 characterization.</p> <p>14 BY MR. AMLONG:</p> <p>15 Q. Well, you said Mr. Benitez expressed, in your</p> <p>16 presence, his concern about an e-mail that had been</p> <p>17 received from ADP.</p> <p>18 Was it -- what were you participating in a</p> <p>19 meeting about ADP?</p> <p>20 A. I don't remember. We were in a meeting about ADP</p> <p>21 when he expressed his frustrations or somebody got the</p> <p>22 e-mail and brought it to his attention. I remember his</p> <p>23 frustrations.</p> <p>24 Q. From whom was the e-mail?</p> <p>25 A. I don't recall. I know there was an e-mail</p>

<p>58</p> <p>1 communication. You know, I think there was -- could have 2 been a phone call. I think it was an e-mail. 3 Q. Okay. 4 Was this meeting about ADP? 5 A. I don't think -- I don't think necessarily about 6 ADP. 7 Q. Do you recall any discussion about whether or 8 not -- or about what the relationship should be between 9 ChildNet and ADP? 10 A. We were trying to -- we had i-Vantage. Our 11 payroll system is called i-Vantage. Staff did not like 12 i-Vantage because it was very cumbersome, the performance 13 appraisals were very lengthy, very repetitive, very time 14 consuming to complete. So we been looking at going with a 15 different payroll company with -- and then ADP was 16 suggested. I don't know -- I don't recall who suggested 17 ADP -- that would be able to do the same functions and not 18 be as cumbersome. 19 There were discussions that I remember that Leigh 20 had that ADP might be more expensive than UltiPro, that's 21 the one we have now, than i-Vantage. I don't remember 22 what the difference was. If everything got rolled out, if 23 all the modules that ADP had would get rolled out, we 24 never rolled them out. I think we only kept the payroll 25 processing of it, and we kept i-Vantage. We kept both of</p>	<p>60</p> <p>1 CERTIFICATE OF OATH 2 STATE OF FLORIDA) 3 COUNTY OF BROWARD) 4 5 I, Rhonda Bonner, Registered Professional 6 Reporter, Florida Professional Reporter, Notary Public, 7 State of Florida, certify that SYLVIA SMITH-TORRES 8 personally appeared before me on March 13, 2013 and was 9 duly sworn. 10 WITNESS my hand and official seal this 29th of 11 March, 2013. 12 13 14 15 _____ 16 RHONDA BONNER 17 REGISTERED PROFESSIONAL REPORTER 18 NOTARY PUBLIC - STATE OF FLORIDA 19 MY COMMISSION #DD806306 20 MY COMMISSION EXPIRES 10-15-16 21 22 23 24 25</p>
<p>59</p> <p>1 them. And now we have subsequently moved to a different 2 payroll system. 3 Q. So did you eliminate anything or simply add ADP? 4 A. Added ADP. I don't think anything else was 5 eliminated. 6 MR. AMLONG: Thank you. 7 MR. LOFFREDO: She'll read. I don't 8 have any questions. Okay. 9 (Proceedings concluded @ 3:50 p.m. on 10 March 13, 2013.) 11 12 13 14 15 16 17 18 19 20 21 22 23 24 25</p>	<p>61</p> <p>1 REPORTER'S DEPOSITION CERTIFICATE 2 STATE OF FLORIDA) 3 COUNTY OF BROWARD) 4 5 6 I, RHONDA BONNER, Registered Professional 7 Reporter, Florida Professional Reporter, certify that I 8 was authorized to and did stenographically report the 9 deposition of SYLVIA SMITH-TORRES; that a review of the 10 transcript was requested; and that the foregoing 11 transcript, pages 1 through 60, is a true and complete 12 record of my stenographic notes. 13 14 I further certify that I am not a relative, 15 employee, attorney, or counsel of any of the parties, nor 16 am I a relative or employee of any of the parties' 17 attorney or counsel connected with the action, nor am I 18 financially interested in the action. 19 20 Dated this 29th of March, 2013. 21 22 23 _____ 24 RHONDA BONNER 25 REGISTERED PROFESSIONAL REPORTER FLORIDA PROFESSIONAL REPORTER</p>

<div style="text-align: right; margin-bottom: 10px;">62</div> <div style="margin-bottom: 10px;"> <p>1</p> <p>2 March 29, 2013</p> <p>3</p> <p>4 SYLVIA SMITH-TORRES</p> <p>5 c/o THOMAS H. LOFFREDO, ESQUIRE</p> <p>6 GRAY ROBINSON</p> <p>7 401 EAST LAS OLAS BOULEVARD</p> <p>8 LAS OLAS CITY CENTRE - 401</p> <p> FORT LAUDERDALE, FLORIDA 33301</p> <p>9 Re: R. LEIGH MCPHAIL v CHILDNET, INC., a Florida</p> <p>10 not-for-profit corporation,</p> <p>11 Please take notice that on March 13, 2013, you</p> <p>12 gave your deposition in the above-referenced matter. At</p> <p> that time you did not waive your signature.</p> <p>13 Please contact our office to make an appointment</p> <p>14 to read and sign the deposition. Notice that this address</p> <p>15 may be different than the one where you gave your</p> <p>16 deposition. If you do not appear to read and sign your</p> <p>17 deposition in a reasonable time, the original will be</p> <p>18 forwarded to the attorney who requested your appearance</p> <p> for the deposition for filing with the Clerk of the Court.</p> <p>19 If you wish to waive your signature, sign your</p> <p>20 name in the blank at the bottom of this page and return it</p> <p>21 to us.</p> <p>22 Very truly yours,</p> <p> BRICKELL, GOMBERG & ASSOCIATES</p> <p>23 I DO HEREBY WAIVE MY SIGNATURE:</p> <p>24 _____</p> <p>25 SYLVIA SMITH-TORRES</p> <p> CC via transcript:</p> <p> WILLIAM R. AMLONG, ESQUIRE, ESQUIRE</p> <p> THOMAS H. LOFFREDO, ESQUIRE</p> </div>	
<div style="text-align: right; margin-bottom: 10px;">63</div> <div style="margin-bottom: 10px;"> <p>1 ERRATA SHEET</p> <p>2 F.R.C.P. RULE 1.310 PROVIDES IN PART:</p> <p>3 (e)"...Any changes in form or substance that the</p> <p>4 witness wants to make shall be entered upon a separate</p> <p>5 correction page by the officer with a statement of the</p> <p> reasons given by the witness for making them..."</p> <p>6 PAGE/LINE CHANGE/CORRECTION REASON</p> <p>7 _____</p> <p>8 _____</p> <p>9 _____</p> <p>10 _____</p> <p>11 _____</p> <p>12 _____</p> <p>13 _____</p> <p>14 _____</p> <p>15 _____</p> <p>16 _____</p> <p>17 _____</p> <p>18 _____</p> </div>	

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